

Appl. No.: 10/725,044
Amendment dated January 9, 2006
Reply to Office Action of October 7, 2005

REMARKS/ARGUMENTS

In view of the following remarks, reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as presented are earnestly solicited. Claims 1-3 and 5-24 are pending. The Examiner has indicated that Claims 5-24 are in condition for allowance. In response to the Office Action, Applicant respectfully traverses the rejections of Claims 1-3. Accordingly, it is believed that all of the pending claims define patentable subject matter over the prior art cited by the Examiner and notice to such effect is requested at the Examiner's earliest convenience.

Claim Rejections – 35 U.S.C. §103

Examiner has rejected Claims 1-3 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,554,450 to Fang *et al.* ("Fang") in view of U.S. Patent No. 4,914,858 to Njissen ("Njissen"). More particularly, the Examiner has stated that Fang discloses the use of white LED light for illuminating plants in a single container. The Examiner has also stated that "it would have been obvious to one skilled in the art to substitute the single containers shown in Fang with the plates (3) in Njissen."

The applicant respectfully submits that the Federal Circuit has consistently stated that a finding of obviousness requires a specific teaching, motivation, or suggestion to combine the teachings of individual items of prior art. See, e.g., *In Re Sang Su Lee*, No. 00-1158 (Fed. Cir. January 18, 2002) (factual question of motivation to combine is material to patentability and could not be resolved on subjective belief and unknown authority); *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998) (a showing of a suggestion, teaching, or motivation to combine is an essential evidentiary component of an obviousness holding); *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992) (Examiner can satisfy burden of obviousness in light of combination only by showing some objective teaching leading to the combination); and *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (evidence of teaching or suggestion essential to avoid hindsight). In contrast, neither Fang nor Njissen contains a specific teaching, motivation, or suggestion to combine the teachings of the two cited references.

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Furthermore, even if the teachings of Fang and Njissen were properly combined, the asserted combination would still fail to disclose a "plate defining a plurality of wells" and a plurality of light emitting diodes arranged in a light-emitting diode array corresponding to the well array such that a fixed number of light-emitting diodes are positioned opposite a respective one of the wells..." as recited by Claim 1 of the present application. In contrast, neither Fang nor Njissen disclose, teach, or suggest "a plate defining therein a plurality of wells" as recited in Claim 1. More particularly, Njissen discloses only "trays 3, 3' ... filled with substrate into which the seeds for germinating are inserted." See Njissen, column 2, lines 15-17. Njissen does not teach or suggest a plate defining a plurality of individual wells within the disclosed "trays." Furthermore, as the Examiner has indicated in the pending Office Action, "Fang *et al.* doesn't show a plate (3) comprising a plurality of wells." Thus, for the reasons stated above, the combination of Fang and Njissen still fails to teach or suggest the recitations of pending Claim 1 and the recitations of Claims 2 and 3 depending therefrom.

CONCLUSION

In conclusion, Fang and Njissen, alone or in combination, do not teach, suggest, or provide motivation for the embodiments of the present invention, as recited in pending Claims 1-3. Accordingly, in view of the above differences between the Applicant's invention and the cited references, the Applicant submits that the present invention, as defined by the pending claims, is patentable over the references cited in the Office Action. As such, for the reasons set forth above, the pending claims 1-3 and 5-24 are believed to be in condition for immediate allowance and notice to such effect is respectfully requested at the Examiner's earliest opportunity.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

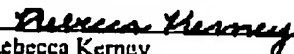
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CERTIFICATION OF FACSIMILE TRANSMISSION

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Rebecca Kerney

1/9/06

Date